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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

FRANK THEATRES BAYONNE/SOUTH
COVE, LLC, *et al.*,^{1, 2}

Debtors.

Chapter 11

Case No. 18-34808 (SLM)

Jointly Administered

**STIPULATION AND CONSENT ORDER RESOLVING CLAIM NO. 57
FILED BY COTTON COMMERCIAL USA, INC.**

The relief set forth on the following pages, numbered two (2) through six (6), is hereby
ORDERED.

¹ Prior to the Effective Date (as defined herein) of the Modified Plan (as defined herein), the Debtors in these Chapter 11 cases (the “**Chapter 11 Cases**”) and the last four digits of each Debtor’s taxpayer identification number were as follows: Frank Theatres Bayonne/South Cove, LLC (3162); Frank Entertainment Group, LLC (3966); Frank Management LLC (0186); Frank Theatres, LLC (5542); Frank All Star Theatres, LLC (0420); Frank Theatres Blacksburg LLC (2964); Frank Theatres Delray, LLC (7655); Frank Theatres Kingsport LLC (5083); Frank Theatres Montgomeryville, LLC (0692); Frank Theatres Parkside Town Commons LLC (9724); Frank Theatres Rio, LLC (1591); Frank Theatres Towne, LLC (1528); Frank Theatres York, LLC (7779); Frank Theatres Mt. Airy, LLC (7429); Frank Theatres Southern Pines, LLC (2508); Frank Theatres Sanford, LLC (7475); Frank Theatres Shallotte, LLC (7548); Revolutions at City Place LLC (6048); Revolutions of Saucon Valley LLC (1135); Frank Entertainment Rock Hill LLC (0753); Frank Entertainment PSL, LLC (7033); Frank Hospitality Saucon Valley LLC (8570); Frank Hospitality York LLC (6617); and Galleria Cinema, LLC (2529).

² Upon the Effective Date of the Modified Plan, the presently operating Reorganized Debtors are as follows: Frank Entertainment Group, LLC; Frank Management, LLC; Frank Theatres York, LLC; Frank Hospitality York, LLC; Frank Theatres Delray, LLC; Frank Theatres Parkside Town Commons, LLC; Frank Blacksburg, LLC; Frank Theatres Southern Pines, LLC; Frank Theatres, LLC; and Frank Management, LLC.

Debtor: Frank Theatres Bayonne/South Cove, LLC, *et al.*

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Caption: Stipulation and Consent Order Resolving Claim No. 57 Filed by Cotton Commercial USA, Inc.

THIS MATTER comes before the United States Bankruptcy Court for the District of New Jersey (the “**Court**”) upon the objection of Moss Adams LLP (the “**Administrative and Priority Claims Agent**”) to proof of claim no. 57 filed by Cotton Commercial USA, Inc. (“**Cotton**,” and together with the Administrative and Priority Claims Agent, the “**Parties**”); and the Court having jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334; and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and consideration of this matter being a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that proper and adequate notice of the dispute has been given and that no other or further notice is necessary; and upon the record herein and the agreement of the Administrative and Priority Claims Agent and Cotton, the Court having determined that the relief provided for herein is in the best interests of the Debtors, their estates, and creditors; and after due deliberation and good and sufficient cause appearing therefor;³

IT IS HEREBY ORDERED THAT:

1. Subject to the provisions of paragraphs #4 and #5 of this Stipulation and Consent Order, proof of claim No. 57 filed by Cotton is hereby reclassified as a General Unsecured Claim against the estate of Frank Management, LLC in the amount of \$1,070,043.85 (the “**Claim**”), subject to Cotton’s rights, if any, under paragraph #3 of this Stipulation and Consent Order.

2. As provided under Article (VI)(F)(1) of the Modified Plan, the Claim shall be reduced in full, and the Claim shall be disallowed without an objection to such Claim having to be filed and without any further notice to or action, order, or approval of the Court, to the extent that Cotton receives payment in full of its Claim from a party that is not any of the Debtors,

³ Unless otherwise defined, all capitalized terms shall have the meaning ascribed to them in the *Modified First Amended Plan of Reorganization of Frank Theatres Bayonne/South Cove, LLC, et al., Pursuant to Chapter 11 of the Bankruptcy Code* as confirmed by an Order of the Court entered on October 29, 2019 (the “**Modified Plan**”) [Docket No. 783].

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Reorganized Debtors, Administrative and Priority Claims Agent, or the Liquidating Trust, as applicable.⁴ To the extent Cotton receives a Distribution on account of its Claim and receives payment from a party that is not any of the Debtors, Reorganized Debtors, Administrative and Priority Claims Agent, or the Liquidating Trust on account of such Claim, Cotton shall repay, return, or deliver any Distribution held by or transferred to Cotton to the Liquidating Trust or Administrative and Priority Claims Agent to the extent Cotton's total recovery on account of such Claim from the third party and under the Modified Plan exceeds the amount of such Claim as of the date of any such Distribution under the Modified Plan.

3. Cotton expressly reserves all rights and claims as it relates to the \$948,736.35 in insurance proceeds that is the subject of STORE Capital Acquisitions, LLC's *Motion for Entry of Order Directing Release of Non-Estate Property* [Docket No. 889]. This includes, without limitation, those claims alleged and asserted by Cotton in that action pending in Brunswick County, North Carolina Civil Superior Court, File No. 20-CVS-301, and all legal and equitable remedies.

4. The Liquidating Trustee and Liquidating Trust's right to object to the validity, extent, and/or amount of the Claim are expressly preserved.

5. Cotton's right to assert and/or defend the validity, extent, amount, or basis for the Claim, including the assertion of claims or causes of action that may arise from any of the Liquidating Trustee and Liquidating Trust's objections to the validity, extent, and/or amount of the Claim are expressly preserved.

⁴ If there is any discrepancy between the terms of the Modified Plan and the terms of this paragraph of this Stipulation and Consent Order, the terms of the Modified Plan shall govern.

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6. The Administrative and Priority Claims Agent, the Debtors, the Debtors' claims and noticing agent, the Liquidating Trustee, and the Clerk of this Court are each authorized to take any and all actions that are necessary or appropriate to give effect to this Stipulation and Consent Order.

7. The terms set forth in this Stipulation and Consent Order are the entire agreement between the Parties and may only be modified in a writing signed by the Parties.

8. THE PARTIES EXPRESSLY WAIVE ANY RIGHT TO A TRIAL BY JURY OF ANY DISPUTE ARISING UNDER, OR RELATING TO, THE SETTLEMENT SET FORTH IN THIS STIPULATION AND CONSENT ORDER.

9. Each of the Parties hereto consents to the jurisdiction of the Court to adjudicate any and all disputes arising under or relating to this Stipulation and Consent Order.

10. The terms of this Stipulation and Consent Order shall be governed by, and construed and interpreted with, the laws of the State of New Jersey without regard to any conflict of law provisions.

11. This Stipulation and Consent Order shall be binding upon the Parties hereto and any of their successors, representatives, and/or assigns.

12. This Stipulation and Consent Order may be executed in counterparts and all executed counterparts taken together shall constitute one document.

13. The Liquidating Trustee has reviewed the terms and form of this Stipulation and Consent Order and does not object to the entry thereof.

14. This Stipulation and Consent Order has been drafted through a joint effort of the Parties and, therefore, shall not be construed in favor of or against any of the Parties. The terms

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of this Stipulation and Consent Order shall be deemed to have been jointly negotiated and drafted by the Parties.

15. Notwithstanding the applicability of any of the Federal Rules of Bankruptcy Procedure, the terms and conditions of this Stipulation and Consent Order shall be immediately effective and enforceable upon its entry.

16. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Stipulation and Consent Order.

Dated: April 14, 2020

STIPULATED AND AGREED:

LOWENSTEIN SANDLER LLP

By: /s/ Eric Chafetz

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Debtor: Frank Theatres Bayonne/South Cove, LLC, *et al.*

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**AS TO THE TERMS AND FORM
OF STIPULATION AND CONSENT
ORDER:**

**PACHULSKI STANG ZIEHL
& JONES LLP**

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-and-

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